

House Bill 1585 (AS PASSED HOUSE AND SENATE)

By: Representatives Lane of the 167th, Keen of the 179th, and Hill of the 180th

A BILL TO BE ENTITLED

AN ACT

To create the Brunswick-Glynn County Joint Water and Sewer Commission; to provide a short title; to define certain terms; to provide for membership, appointment, terms, cooperation, quorums, and officers of the commission; to provide for a director; to provide for purposes; to provide for powers; to expressly prohibit the exercise of eminent domain by the commission; to provide for ordinance proposals; to provide for tax exemption; to provide for construction; to provide for cumulative nature of powers; to provide for a referendum; to provide effective dates; to provide for contingent repeal; to repeal conflicting laws; and for other purposes.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

SECTION 1.

This Act shall be known and may be cited as the "Brunswick-Glynn County Joint Water and Sewer Commission Act."

SECTION 2.

There is hereby created a body corporate and politic, to be known as the Brunswick-Glynn County Joint Water and Sewer Commission, which shall be a political subdivision of the State of Georgia and a public corporation, and by that name, style, and title said body may contract and be contracted with, sue and be sued, implead and be impleaded, complain and defend in all courts of law and equity. The commission shall have perpetual existence, and shall be deemed a governmental body within the meaning of the Georgia Revenue Bond Law, Article 3 of Chapter 82 of Title 36 of the Official Code of Georgia Annotated, specifically under subparagraph (2)(C) of Code Section 36-82-61.

SECTION 3.

As used in this Act, the following words and terms shall have the following meanings:

(1) 'Commission' shall mean the Brunswick-Glynn County Joint Water and Sewer Commission created by Section 2 of this Act.

(2) 'City' shall mean the City of Brunswick.

(3) 'County' shall mean Glynn County, Georgia.

(4) 'Project' shall mean the acquisition, construction, and equipping of a water system, sewer system, or combined water and sewer system and all property used or useful in connection therewith.

(5) 'Revenue bonds' and 'bonds' shall mean revenue bonds, certificates, and other obligations of the commission, as defined and provided for in Article 3 of Chapter 82 of Title 36 of the O.C.G.A., the "Revenue Bond Law," and such type of obligations may be issued by the commission under this Act and as authorized under said article.

(6) 'System' means any water system or sewer system or combined water and sewer system of the commission.

(7) 'Unified system' shall mean the combined water and sewer systems of the City of Brunswick and Glynn County.

SECTION 4.

(a) The commission shall consist of five members. The governing authorities of the county and the city shall each appoint two of their members to the commission. The initial terms of one of the members appointed by the city and one of the members appointed by the county shall be one year from the date of appointment, and all succeeding terms shall be for a period of two years. The terms of all other members of the commission shall be two years from the date of appointment except that no member appointed to one of these four positions or their successors in office shall serve beyond their term in office as a member of the respective appointing body. There shall be no limit to the number of terms a person may serve as a member of the commission. A majority of the four original commission members shall select and name a fifth member to serve on the commission within 30 days of its first meeting. The fifth member shall be a resident of the county and shall serve a term of two years from the date of appointment. Successors in office to the original fifth member shall be selected in the same manner by a majority of members of the commission then sitting. The commission may declare that any member missing three consecutive meetings of the commission has vacated his or her office. The commission may for good cause shown excuse any absence of an individual member so that it does not count toward this limit. If the commission declares an office vacated, it may request the county or the city, as appropriate, to name a successor to serve the balance of that former member's term. Within 30 days of receiving such a request, the governing commission of the county or the city shall appoint a successor. In the case of

1 the fifth member, the four members of the commission that are also members of the
2 governing authorities of the county and the city may name a successor to serve the balance
3 of the member's term. Members of the commission shall be officers of the commission when
4 performing the functions of those offices and shall not be deemed to be officers of the city
5 or county.

6 (b) All members shall be reimbursed for their actual expenses necessarily incurred in the
7 performance of their duties, including mileage reimbursed at the standard business mileage
8 rate as determined by the Internal Revenue Service and adopted by the commission.

9 (c) A quorum of the members of the commission shall be required to transact any business.
10 Three members of the commission shall constitute a quorum. A quorum of the commission
11 must include at least one member who is a member of the governing commission of the city
12 and at least one member who is a member of the governing commission of the county.
13 Meetings of the commission shall be conducted in accordance with *Robert's Rules of Order*.

14 (d) The commission shall elect a chairperson from its members to serve a one year term.
15 There shall be no limit to the number of terms, consecutive or otherwise, that the chairperson
16 may serve.

17 **SECTION 5.**

18 The commission shall contract with an individual to serve as director to manage the unified
19 system as its employee. The director shall not be a member of the commission and shall not
20 be deemed to be an employee of either the county or the city.

21 **SECTION 6.**

22 Without limiting the generality of any provisions of this Act, the general purposes of the
23 commission are declared to be those of acquiring, constructing, equipping, maintaining, and
24 operating adequate water supply, treatment, and distribution facilities and sewerage
25 collection, treatment, and distribution facilities; making such facilities and services available
26 to public and private consumers and users located in the city and the county; and extending
27 and improving such facilities as necessary.

28 **SECTION 7.**

29 After holding a public hearing regarding and prior to entering into an operational agreement
30 with the city and county to operate the unified system and subsequently entering into such
31 an agreement, the commission shall have the following powers and duties:

- 32 (1) To have a seal and to alter same at its pleasure;

1 (2) To operate a water and sewer system or systems including a unified water and sewer
2 system utilizing the systems and assets of both the county and the city water and sewer
3 systems and to provide water and sewer services to all citizens and customers in the
4 county and the city and to citizens and customers in either political subdivision. The
5 commission shall operate its system or systems in conformity with all applicable
6 regulations, licenses, and permits and shall be liable to pay any fines or assessments
7 resulting from failure to conform to same;

8 (3) To acquire by purchase, lease, gift, or otherwise and to hold, lease, and dispose of
9 real and personal property of every kind and character for its corporate purposes;

10 (4) To acquire real or personal property in its own name by purchase, lease, exchange,
11 gift, or otherwise on such terms and conditions and in such a manner as it may deem
12 proper, necessary, or convenient for its corporate purposes, and to use the same so long
13 as its corporate existence shall continue, and to lease or make contracts with respect to
14 the use of, or dispose of the same in any manner it deems to the best advantage of the
15 commission, and no property shall be acquired under the provisions of this Act upon
16 which any lien or other encumbrance exists unless at the time such property is so acquired
17 a sufficient sum of money shall be deposited in trust to pay and reduce the face value of
18 such lien or encumbrance.

19 (5) To appoint, select, and employ such officers, agents, and employees as shall be
20 necessary in the judgment of the commission to accomplish the purposes of the
21 commission, including accountants, auditors, attorneys, consulting engineers, and other
22 professionals; to fix their respective compensation; and to provide for pension and
23 retirement plans for these officers, agents, and employees. After the commission enters
24 into an agreement to operate the unified system, existing water and sewer employees of
25 the county and the city and former employees of the county who are employees of the
26 company operating the county's water and sewer system shall be offered employment
27 with the commission. The position offered to such persons and the terms of
28 compensation are entirely within the discretion of the commission;

29 (6) To formulate and adopt an annual operating budget of all its revenues and expenses.
30 On or before May 1 of each year the commission shall submit its proposed budget to the
31 county and the city for their comments before its adoption by the commission;

32 (7) To make contracts and leases and to execute all instruments necessary or convenient,
33 including contracts for construction of projects and leases of projects or contracts with
34 respect to the use of projects which it causes to be constructed, erected, or acquired. Any
35 and all persons, firms, and corporations and any and all political subdivisions,
36 departments, institutions, or agencies of the state are authorized to enter into contracts,

1 leases, or agreements with the commission upon such terms and for such purposes as they
2 deem advisable;

3 (8) To construct, erect, acquire, own, repair, remodel, maintain, add to, extend, improve,
4 equip, operate, and manage projects, as defined in this Act and to pay the cost of the
5 project in whole or in part from the proceeds of revenue bonds of the commission or from
6 such proceeds and any grant or contribution from the United States of America or any
7 agency or instrumentality thereof or from the State of Georgia or any political
8 subdivision, agency, or instrumentality thereof;

9 (9) To borrow money for any of its corporate purposes and to issue revenue bonds
10 payable solely from funds pledged for that purpose and to provide for the payment of the
11 same and for the rights of the holders thereof;

12 (10) To exercise any power usually possessed by private corporations performing similar
13 functions, including the power to make short-term loans and approve, execute, and
14 deliver appropriate evidence of such indebtedness, provided no such power is in conflict
15 with the Constitution or general laws of this state;

16 (11) To enter into an operational agreement with the county and the city detailing the
17 power of the commission to operate the unified system and the rights of the county, the
18 city, and the commission during the period of such operation. The term of such agreement
19 shall not exceed 50 years;

20 (12) To be liable for payment of all charges and expenses of operating the unified system
21 and to receive all income from the operation of the unified system, except that the county
22 and the city shall continue to receive income necessary to retire any existing indebtedness
23 of their systems;

24 (13) To prescribe, fix, and collect rates, fees, tolls, or charges and to revise from time to
25 time and collect such rates, fees, tolls, or charges, provided that such rates, fees, tolls, or
26 charges shall be calculated to cover only the cost of providing services; to provide capital
27 to expand facilities; to maintain, replace, or expand existing facilities; to provide a
28 reasonable reserve for operations; to fund bond sinking funds; or to fund sinking funds
29 for other debt of the county or the city incurred to provide capital portions of their water
30 or sewer system. The commission shall not operate the unified system at a profit;

31 (14) To accept grants of money, materials, or property of any kind from the United States
32 of America or any agency or instrumentality thereof upon terms and conditions as the
33 United States of America or such agency or instrumentality may impose;

34 (15) To accept grants of money, materials, or property of any kind from the State of
35 Georgia or any agency or instrumentality or political subdivision thereof upon terms and

1 conditions as the State of Georgia or such agency or instrumentality or political
2 subdivision may impose;

3 (16) To accept grants of money, materials, or property of any kind from the city, the
4 county, or any agency or instrumentality thereof upon terms and conditions as the city,
5 the county, or such agency or instrumentality may impose;

6 (17) To accept grants of money, materials, or property of any kind from any other source,
7 private or public, provided that such grant or gift is not encumbered with any terms or
8 conditions;

9 (18) To insure its interest and the interest of the county and the city or any other entity
10 with which it contracts in all assets leased or utilized by it; and

11 (19) To do all things necessary or convenient to carry out the powers and duties
12 expressly given in this Act.

13 **SECTION 8.**

14 The commission shall not have or exercise any power of eminent domain.

15 **SECTION 9.**

16 The commission shall be charged with formulating a proposal for the standardization of
17 county and city ordinances relating to water and sewer services. Such ordinances shall
18 become effective only upon adoption by the governing authorities of the county and the city.

19 **SECTION 10.**

20 The commission, or any commission, authority, or other entity or body which has or which
21 may in the future succeed to the powers, duties, and liabilities vested in the commission
22 created in this Act, shall have power and is authorized at one time, or from time to time, to
23 borrow money for the purpose of paying all or any part of the cost, as defined in this Act, of
24 any one or more projects and to provide by resolution for issuance of revenue bonds for that
25 purpose. The bonds of each issue shall be dated, shall mature at such time or times not
26 exceeding 40 years from their date or dates, shall be payable in such medium of payment as
27 to both principal and interest as may be determined by the commission, and may be made
28 redeemable before maturity, at the option of the commission, at such price or prices and
29 under such terms and conditions as may be fixed by the commission in the resolution
30 providing for the issuance of the bonds. The interest rate or rates to be borne by any bonds
31 and the time of payment of such interest shall be fixed, and with respect to any interest rate
32 which floats in response to a variable, the method of calculation shall be fixed by the
33 commission in the resolution providing for the issuance of all bonds.

SECTION 11.

The commission is authorized to provide by resolution for the issuance of refunding bonds of the commission for the purpose of refunding any revenue bonds issued under the provisions of this Act and then outstanding, together with accrued interest thereon, and to refund any revenue bonds issued by the city, the county, or the commission with respect to any facilities to be acquired by the commission from the city, county, or other political subdivision or authority.

SECTION 12.

Any action to protect or enforce any rights under the provisions of this Act or any action against the commission shall be brought in the Superior Court of Glynn County, Georgia, and any action pertaining to validation of any bonds issued under the provisions of this Act shall likewise be brought in such court, which shall have exclusive, original jurisdiction of such actions.

SECTION 13.

Bonds of the commission shall be confirmed and validated in accordance with the procedure provided for in Article 3 of Chapter 82 of Title 36 of the O.C.G.A., the "Revenue Bond Law," as now or hereafter amended.

SECTION 14.

The properties of the commission, both real and personal, are declared to be public properties used for the benefit and welfare of the people of the city and county and not for purposes of private or corporate benefit and income. Such properties and the commission shall be exempt from all taxes of any city, county, the state, or any political subdivision thereof.

SECTION 15.

This Act, being for the welfare of various political subdivisions of the state and its inhabitants, shall be liberally construed to effect the purposes thereof.

SECTION 16.

This Act does not in any way take from the county or the city the authority to own, operate, and maintain water, sanitary sewerage, and water pollution control facilities or to issue revenue bonds as provided by Chapter 82 of Title 36 of the O.C.G.A., the "Revenue Bond Law"; but the powers granted by this Act to the commission shall be in addition to and

1 cumulative of all other powers now or hereafter given to any municipal corporation or
2 political subdivision of this state.

3 **SECTION 17.**

4 Unless prohibited by the federal Voting Rights Act of 1965, as amended, the election
5 superintendents of the City of Brunswick and Glynn County shall call and conduct elections
6 as provided in this section for the purpose of submitting this Act to the electors of the City
7 of Brunswick and to the electors of all that portion of Glynn County outside of the City of
8 Brunswick for approval or rejection. The election superintendents shall conduct such
9 elections on the date of the state-wide general primary in 2006 and shall issue the call and
10 conduct those elections as provided by general law. The election superintendent of Glynn
11 County shall cause the date and purpose of the election to be published once a week for two
12 weeks immediately preceding the date thereof in the official organ of Glynn County. The
13 ballot shall have written or printed thereon the words:

14 "() YES Shall the Act be approved which creates the Brunswick-Glynn County Joint
15 () NO Water and Sewer Commission?"

16 All persons desiring to vote for approval of the Act shall vote "Yes," and all persons desiring
17 to vote for rejection of the Act shall vote "No." If more than one-half of the votes cast on
18 such question by the voters of the City of Brunswick and more than one-half of the votes cast
19 on such question by the voters of all that portion of Glynn County outside of the City of
20 Brunswick are for approval of the Act, then Sections 1 through 15 of this Act shall become
21 of full force and effect immediately. If the Act is not so approved by the voters of the City
22 of Brunswick and the voters of all that portion of Glynn County outside the City of
23 Brunswick or if the election is not conducted as provided in this section, Sections 1 through
24 15 of this Act shall not become effective and this Act shall be automatically repealed on the
25 first day of January immediately following that election date. The expense of such election
26 shall be borne by the City of Brunswick and Glynn County. It shall be the election
27 superintendents' duties to certify the result thereof to the Secretary of State.

28 **SECTION 18.**

29 Except as otherwise provided in Section 17 of this Act, this Act shall be come effective upon
30 its approval by the Governor or upon its becoming law without such approval.

SECTION 19.

If this Act becomes effective under Section 16 of this Act, this Act shall stand repealed one year after the date on which this Act becomes so effective unless an operational agreement between the City of Brunswick and Glynn County has been entered into under Section 7 of this Act prior to such latter date.

SECTION 20.

All laws and parts of laws in conflict with this Act are repealed.